




5. Plaintiff has not yet produced any documents in response to the First Request for Production.

6. Walleye Trading intends to subpoena D. E. Shaw & Co., L.P. ("D. E. Shaw") for documents and perhaps testimony, and also intends to subpoena Peter Reiss and Tomislav Pavlicic, two employees of D. E. Shaw who submitted affidavits in support of plaintiff's instant motion for preliminary injunctive relief.

Dated: October 23, 2007

By:   
Harry W. Lipman